REMARKS

Claims 1, 9-15, 19-21 and 24-28 are pending in the present application. Claims 2-8, 16-18 and 22-23 were canceled. By virtue of this response, claims 1, 9, 24, and 27-28 have been amended. Accordingly, claims 1, 9-15, 19-21 and 24-28 are currently under consideration. Support for the amendments can be found e.g., at p. 3, ll. 63-67; p. 4, ll. 108-116; p. 5, ll. 128-136; p. 8, l. 220 – p. 10, l. 260; p. 11, ll. 304-305; p. 64, ll. 1760 - 1767 p. 74, l. 2043 to p. 75, l. 2082. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Rejections under § 101

Claims 1, 9, 10-15, 19-21 and 24-28 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

In response, Applicants respectfully disagree. Applicants submit that the above rejection is misplaced as the present claims are directed to a matching network system comprising a communication device or mobile device and a server where an application may rest with the server or the mobile device. Thus, the present claims are clearly directed to statutory subject matter.

Rejections under § 102

Claims 9 and 24-28 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application No. 2003/0087652 to Simon et al.

In response, Applicants respectfully disagree. Applicants submit that Simon does not teach or suggest all of the elements of claims 9 or 24-28 as amended.

Simon is directed to "a system and method of creating affinity groups of portable communication device users, and distributing targeted content to said users....The user affinity groups may be formed by comparing user profiles with each other or with a predefined affinity group profile definition, for use in applications such as gaming. Abstract; [0001]. Simon is focused on the comparison and utilization of user profiles for forming affinity groups and updating those profiles [105]-[108]. Simon does not teach or suggest a

matching network system comprising "servers communicating with the communication device and comprising an <u>application structured as a</u> probabilistic finite state machine <u>for tailoring the functionality of the application to a specific user</u> and <u>for predicting</u> behavioral models <u>based on actions of the specific user on the application to establish one or more personality states on the application.</u>"

Similarly, Simon does not teach or suggest "a mobile device coupled to the server, wherein the <u>mobile device comprises an application structured as a</u> probabilistic finite state machine <u>for tailoring the functionality of the mobile device application to a specific user and for predicting behavioral models based on actions of the specific user on the application to establish one or more personality states on the application, protocols, and behavior and learning logic,</u>" as recited in amended claim 24.

Thus, Applicants respectfully request that the above rejections be withdrawn.

Claim 11 is rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application No. 2003/0014373 to Perge et al.

In response, Applicants respectfully disagree. Applicants submit that Perge does not teach or suggest all of the elements of claim 11 which depends from amended claim 1, as amended. In contrast, Perge is directed to a matching system which enables a presenter to prepare a <u>profile</u> template where "the profile template provides information parameters useful for a searcher." (Abstract). "A comparison engine maintains a current database of active current presenters and active current searchers. Each of the current participants has previously completed a profile template." [0032]

Perge is focused on the utilization a profile template to provide information parameters useful for a searcher. Perge does not teach or suggest a matching network system comprising: "servers comprising a an <u>application structured as a</u> probabilistic finite state machine <u>for tailoring the functionality of the application to a specific</u> user and <u>for predicting</u> behavioral models <u>based on actions of the specific user on the application to establish one or more personality states on the application.</u>" Thus, Applicants respectfully request that the above rejections be withdrawn.

Rejections under § 103

Claims 1, 13-14 and 20-21 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0087652 to Simon et al in view of U.S. Patent Application No. 2004/0068477 to Gilmour et al.

In response, Applicants respectfully disagree.

It is well established that a *prima facie* case of obviousness requires that all the elements of the claim must be considered and given weight. Applicants submit that the combination of Simon and Gilmour proposed by the Office Action fails to teach or suggest all of the elements of the claims as amended.

As stated above, Simon is directed to "a system and method of creating affinity groups of portable communication device users...the user affinity groups may be formed by comparing user profiles with each other or with a predefined affinity group profile definition, for use in applications such as gaming. Abstract; [0001]. Simon is focused on the comparison and utilization of user profiles for forming affinity groups and updating the profiles [105]-[108]. Simone does not teach or suggest, a matching network system comprising: "servers comprising a an application structured as a probabilistic finite state machine for tailoring the functionality of the application to a specific user and for predicting behavioral models based on actions of the specific user on the application to establish one or more personality states on the application."

Further, Gilmour does not correct the deficiencies of Simon or supply any of the claimed elements that were not taught or suggested by Simon.

Applicants submit that the rejection fails to establish a proper *prima facie* case of obviousness because all of the elements of the present claims have not been taught or suggested by the cited art. Thus, Applicants respectfully request that the above rejections be withdrawn.

Claim 10 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0087652 to Simon et al as applied to claim 9 above, and further in view of U.S. Patent Application No. 2002/0194334 to Focant et al.

In response, Applicants respectfully disagree with the above rejection. As noted above, Simon fails to disclose or even suggest all of the elements of claim 9 as amended. Furthermore, the addition of Focant does not remedy the deficiencies or supply any of the claimed elements that were not taught or suggested by Simon. Accordingly, Applicants believe that claim 10, being dependent upon claim 9, are now in condition for allowance, and Applicants respectfully request that the above rejection be withdrawn.

Claim 12 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0087652 to Simon et al in view of U.S. Patent Application No. 2004/0068477 to Gilmour et al as applied to claim 1 above, and further in view of U.S. Patent Application No. 2002/0040310 to Lieben et al.

Claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0087652 to Simon et al in view of U.S. Patent Application No. 2004/0068477 to Gilmour et al as applied to claim 1 above, and further in view of U.S. Patent Application No. 2003/0217106 to Adar et al.

Claim 19 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0087652 to Simon et al in view of U.S. Patent Application No. 2004/0068477 to Gilmour et al as applied to claim 1 above, and further in view of U.S. Patent No. 7,069,308 to Abrams.
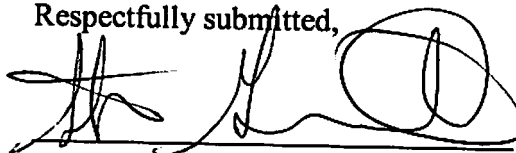
In response, Applicants respectfully disagree with the above rejections. As noted above, Simon in view of Gilmour fail to disclose or even suggest all of the elements of claim 1 as amended. Furthermore, the addition of Lieben, Adar and Abrams does not remedy the deficiencies or supply any of the claimed elements that were not taught or suggested by Simon in view of Gilmour. Accordingly, Applicants believe that claims 12, 15, and 19, being dependent upon claim 1, are now in condition for allowance, and Applicants respectfully request that the above rejections be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Docket No. **IPHLNZ00404**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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